



**UNION TERRITORY OF JAMMU & KASHMIR
DIRECTORATE OF HEALTH SERVICES, JAMMU**

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Subject: - O.A./428/2023 titled Ajay Sharma Vs U.T. of J&K & Ors.

ORDER

Whereas, the applicant working as Health Educator in the department and posted in District Kathua has filed the subject captioned Original Application in the Hon'ble Central Administrative Tribunal, Jammu Bench seeking the following reliefs:-

Quash the impugned order bearing No. 269-NG of 2022, dated 20-03-2022 or in an alternate direct the respondents to modify the impugned order by including the name of the applicant in the same and promoting the applicant from the post of Health Educator to the post of Community Health Officer in the light of office Memorandum No. OM No. 36012/1/2020/Estt(Res-II), dated 07-05-2022 of the Ministry of Personal, Public Grievances and Pension Department of Personnel Training.

Direct the respondents to strictly adhere the office Memorandum No. OM No. 36012/1/2020/Estt(Res-II), dated 07-05-2022, of the Ministry of Personal, Public Grievances and Pension Department of Personnel Training.

Direct the respondents to strictly adhere the office Memorandum No. 36012/1/2020/Estt(Res-II), dated 07-05-2022, of the Ministry of Personal, Public Grievances and Pension Department of Personnel Training.

And whereas, the Hon'ble Central Administrative Tribunal, Jammu Bench disposed of the Original Application with the judgment/order whose operative portion is reproduced verbatim as under: -

"Accordingly, the Original Application is disposed of with a direction to Director, Health Services, Jammu (Respondent No. 2 herein) to decide the applicant's pending representation dated 24.08.2022 and pass a reasoned and speaking order while keeping in view the Office Memorandum dated 07.05.2022 issued by the Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, Government of India and the provisions of Section 34 of the Rights of Persons with Disabilities Act, 2016. Before taking any decision into the matter, the applicant shall also be afforded an opportunity of hearing. The whole exercise shall be undertaken within a period of six weeks from the date of receipt of a certified copy of this order.

Ordered accordingly"

And whereas, the applicant in his representation has claimed that he belongs to Physically Challenged category as per the certificate issued by the Chief Medical Officer Kathua vide Certificate No:-CMO/K/Hand/DC-19, dated. 05-05-2012 and accordingly has requested to give reservation in promotion in the light of Office Memorandum No. OM No. 36012/1/2020/Estt(Res-II), dated 07-05-2022, concerning reservation in promotion to person with disability (PwBDs) issued by

Ministry of Personal, Public Grievances and Pensions Department of Personnel and Training.

And whereas, reservation in promotion in the department is accorded as per the Jammu and Kashmir Reservation Rules, 2005 issued vide Notification SRO-294 dated 21st October, 2005 r/w amendments made thereof vide SRO-144 dated 28-5-2008 and in these rules there is no provision of reservation in promotion for PwBDs. Further, the guidelines issued by the Ministry of Personnel, Public Grievances and Pensions Department of Personnel Training vide office Memorandum No. 36012/1/2020/Estt (Res-II), dated 07-05-2022, concerning reservation in promotion to persons with Benchmark Disabilities, have not been incorporated in the Jammu and Kashmir Reservation Rules, 2005 by making amendments by the Government of Union Territory of J&K till now.

And whereas, in order to comply with Hon'ble Central Administrative Tribunal, Jammu's order dated 02-05-2023 with regard to afford an opportunity of hearing to the applicant before taking a decision, the date of hearing of the applicant was fixed on 03-08-2023 and accordingly the Chief Medical Officer, Kathua was directed vide communique bearing No:-DHSJ/Legal/7866-68, dated 01-08-2023, to direct the applicant to attend hearing on the fixed date.

And whereas, on the scheduled date of hearing, the applicant was present and was heard and was informed about factual position with regard to reservation rules in promotion to PwBDs.

Now, therefore, in compliance to the judgment/order dated 02-05-2023 passed by the Hon'ble Central Administrative Tribunal, Jammu in the instant Original Application the representation of the applicant has been accorded consideration and in view of the above stated factual position found devoid of merit, hence rejected.

Sd/-

(Dr. Rajeev K. Sharma)
Director Health Services,
Jammu

No;-DHSJ/Legal/8662-67

Dated: - 23/08/2023

Copy to the: -

1. Chief Medical Officer, Kathua for information.
2. Block Medical Officer, Sub District Hospital, Parole for information.
3. Private Secretary to Secretary to Govt., Health and Medical Education Department, Civil Secretariat, Jammu for information of worthy Secretary.
4. Health Education Bureau, Directorate of Health Services, Jammu to upload the order on official website.
5. Establishment Section Es-9.
6. Ajay Sharma S/O Parshotam Dass R/O Chann Arrian Tehsil Hiranagar, District Kathua for information.

(Dr. Sanjay Sharma)
Dy. Director (Dentistry)
Health Services, Jammu